

HON. ROBERT J. BRYAN

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

C. P., by and through his parents, Patricia  
Pritchard and Nolle Pritchard; and  
PATRICIA PRITCHARD,

Plaintiffs,

v.

BLUE CROSS BLUE SHIELD OF ILLINOIS,

Defendant.

NO. 3:20-cv-06145-RJB

JOINT STATUS REPORT

**I. NATURE AND COMPLEXITY OF THE CASE**

**Plaintiff's Statement:** Plaintiffs C.P. and Patricia Pritchard allege that defendant Blue Cross Blue Shield of Illinois violated Section 1557 of the Affordable Care Act, 42 U.S.C. §18116 and discriminated on the basis of gender, when it administered health benefits that categorically excluded coverage of certain services for treatment of C.P.'s diagnosed condition of gender dysphoria. Plaintiffs seek injunctive relief, damages and other relief as may be granted by the Court.

Plaintiff does not anticipate that this case will involve significant factual disputes. However, it relates to an area of the law that is rapidly evolving. Given the nature of the legal claims, plaintiff expects this case to be moderately complex.

**Defendants' Statement:** This action is a claim for health care benefits under a self-insured plan governed by the Employee Retirement Income Security Act of 1974 ("ERISA") and sponsored by Catholic Health Initiatives. the Exclusion does not violate Title IX or the ACA. The federal regulations and case law upholding those regulations establish that categorical exclusions precluding benefits for gender-affirming surgery and related treatments do not discriminate on the basis of sex. In addition, the Religious Freedom Restoration Act allows the Exclusion because the Plan's sponsor is a Catholic institution. Even if the Plan did not include the Exclusion, the services at issue are not medically necessary for the plaintiff because he is a minor.

## II. DEADLINE FOR JOINING ADDITIONAL PARTIES

Plaintiff proposes that the deadline for joining additional parties should be August 5, 2021.

## III. MAGISTRATE JUDGE

The parties do not agree that a Magistrate Judge may conduct proceedings.

## IV. PROPOSED DISCOVERY PLAN

The parties' counsel held an FRCP 26(f) conference on February 5, 2021.

### A. Initial Disclosures

The parties provided their FRCP 26(a) initial disclosures on or before February 16, 2021.

### B. Subjects, Timing and Potential Phasing of Discovery

**Plaintiffs' Statement:** Discovery is likely to relate to the issues raised in the Complaint, including C.P.'s claims and appeals file, Defendants' internal policies and procedures, claims administration and coverage decisions related to BCBSIL's administration of the exclusion of certain benefits in the health benefit plan in which C.P. is enrolled. Plaintiffs do not agree to phasing of discovery.



**E. Anticipated Discovery Sought**

Please see Answer provided in IV.B.

**F. Phasing Motions**

The parties do not believe that there is a need for phasing of motions. They suggest that a deadline be established for the filing of dispositive motions approximately 60 days after the deadline for the completion of discovery.

**G. Preservation of Discoverable Information**

The parties have not identified any preliminary issues relating to the preservation of discoverable information.

**H. Privilege Issues**

The parties agree to handle inadvertent production of privileged information as described in the Model Stipulated Protective Order, ¶9.

**I. Model Protocol for Discovery of ESI**

The parties agree to adopt the Model Protocol for Discovery of ESI, should it be necessary.

**J. Alternatives to the Model Protocol.**

No alternative is needed at this time.

**VI. DISCOVERY COMPLETED**

The parties agree that discovery can be completed by December 3, 2021.

**VII. BIFURCATION**

No bifurcation is needed.

**VIII. PRE-TRIAL STATEMENTS AND ORDERS**

No pre-trial statements or orders are needed.

**IX. ADR**

The parties are willing to explore mediation of the dispute pursuant to Local Civil Rule 39.1 (c), although mediation would be most productive after anticipated motions

1 for summary judgment on key legal issues in the case. The parties do not agree to use  
2 the Individualized Trial Program set forth in Local Civil Rule 39.2.

3 **X. SUGGESTIONS FOR SIMPLIFYING CASE**

4 The parties have no other suggestions for simplifying the case.

5 **XI. TRIAL DATE**

6 This matter will be ready for trial on or after March 14, 2022.

7 **XII.**

8 This case will be tried before the Court.

9 **XIII. TRIAL DAYS REQUIRED**

10 If a trial is necessary, the parties anticipate that 4 days would be needed.

11 **XIV. TRIAL COUNSEL**

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**XV. SCHEDULING COMPLICATIONS**

The parties are not aware of any scheduling complications at this time.

**XVI. ADDITIONAL SERVICE**

All Defendants have been served.

**XVII. SCHEDULING CONFERENCE**

The parties agree that no scheduling conference is required.

**XVIII. CORPORATE DISCLOSURE STATEMENT**

Defendant Blue Cross Blue Shield of Illinois filed its corporate disclosure statement on November 30, 2020.

DATED: February 22, 2021.

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